



<NOTICE>

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**Billing Code 4310-55**

**DEPARTMENT OF THE INTERIOR**

**[FWS-R4-FHC-2013-N026]; [FVHC98130406900-XXX-FF04G01000]**

***Deepwater Horizon* Oil Spill; Final Phase II Early Restoration Plan and Environmental Review**

**AGENCY:** Interior.

**ACTION:** Notice of availability of final report.

**SUMMARY:** In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement), notice is hereby given that the Federal and State natural resource trustee agencies (Trustees) have approved the Phase II Early Restoration Plan and Environmental Review (Phase II ERP/ER) describing the second set of restoration projects selected by the Trustees to continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010 in the Gulf of Mexico. The purpose of this notice is to inform the public of the availability of the Phase II ERP/ER.

**ADDRESSES:** *Obtaining Documents:* You may download the Phase II ERP/ER and the Framework Agreement at <http://www.doi.gov/deepwaterhorizon>. You may also review hard copies of the Phase II ERP/ER at any of the public repositories listed at <http://www.gulfspillrestoration.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Brian Spears, at [fw4coastalDERPcomments@fws.gov](mailto:fw4coastalDERPcomments@fws.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Introduction**

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP) in the Macondo prospect (Mississippi Canyon 252 – MC252), experienced a significant explosion, fire and subsequent sinking in the Gulf of Mexico, resulting in discharges of oil and other substances from the rig and from the wellhead on the seabed. An estimated 4.9 million barrels (210 million gallons) of oil were released from the well into the Gulf of Mexico over a period of 87 days. In addition, approximately 1.84 million gallons of dispersants were applied to the waters of the spill area in an attempt to minimize impacts from spilled oil. Affected resources include ecologically, recreationally, and commercially important species and their habitats in the Gulf of Mexico and along the coastal areas of Alabama, Florida, Louisiana, Mississippi, and Texas.

Federal and State Trustees (listed below) are conducting the natural resource

damage assessment for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. § 2701 *et seq.*). Pursuant to OPA, Federal and State agencies and Indian tribes may act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the damages required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship.

The Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Department of Defense (DOD);
- U.S. Environmental Protection Agency (USEPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and

- For the State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

## **Background**

On April 20, 2011, BP agreed to provide up to \$1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the *Deepwater Horizon* oil spill. This early restoration agreement, entitled “Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill” (Framework Agreement), represents a preliminary step toward the restoration of injured natural resources. The Framework Agreement is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together “to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable” prior to the resolution of the Trustees’ natural resource damages claim.

The Trustees actively solicited public input on restoration project ideas through a variety of mechanisms, including public meetings, electronic communication, and creation of a Trustee-wide public website and database to share information and receive public project submissions. Their key objective in pursuing early restoration is to secure tangible recovery of natural resources and natural resource services for the public’s benefit while the longer-term process of fully assessing injury and damages is underway. As the first step in this accelerated process, the Trustees released, after public review of a draft, a Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP/EA) in April 2012. The Phase I ERP is currently being implemented.

In a continuation of the early restoration process, the Trustees proposed two additional

early restoration projects in a Phase II Draft Early Restoration Plan and Environmental Review (Phase II DERP/ER) to address response injuries from the *Deepwater Horizon* oil spill. They address injuries to the nesting habitats of beach-nesting birds and loggerhead sea turtles that resulted from response activities to the oil spill (e.g., efforts to prevent oil from reaching beaches and to remove oil from beaches). These projects address a number of specific public comments on the Phase I ERP/EA that requested development of additional habitat and wildlife-based early restoration projects. Because loggerhead sea turtles and beach-nesting birds begin nesting along the Northeast Gulf coast in February, the Trustees recognized the need to implement these two projects in a timely manner to be effective during the 2013 breeding season and so expedited their proposal. The Trustees continue to work with BP to develop additional restoration projects in accordance with the Framework Agreement. The Alternatives within this plan are not intended to, and do not fully, address all injuries caused by the spill or provide the extent of restoration needed to satisfy claims against BP.

Notice of availability of the Phase II DERP/ER was published in the Federal Register on November 6, 2012. (77 FR 66626, November 6, 2012) The public was afforded 30 days to review and comment on the Phase II DERP/ER. During that review period, the Trustees also held a public meeting in Pensacola, Florida, on November 13, 2012, to facilitate public comment on the Phase II DERP/ER.

The Trustees considered the public comments received on the Phase II DERP/ER prior to finalizing selection of the Phase II Early Restoration projects. The public comments received and the Trustees' responses are addressed in Chapter 5 of the Phase II ERP/ER.

## **Overview of the Phase II ERP/ER**

### ***Early Restoration Plan Alternatives, Including the Selected Alternative***

The Phase II ERP/ER describes two early restoration alternatives: No Action – Natural Recovery (required for consideration by OPA) and Selected Alternative – Phase II Early Restoration Projects. Under the No Action alternative, the Trustees would not implement early restoration projects as described in the Phase II ERP/ER. Rather, the No Action approach would result in delaying protection and improvement of important nesting habitats injured by response actions during the oil spill.

The Selected Alternative includes two projects that meet the selection criteria, as described in the Phase II ERP/ER.

#### ***Selected Early Restoration Alternative***

The Selected Alternative includes two projects intended to protect and enhance beach nesting habitats used by birds and sea turtles. The selected projects will, among other things, protect bird-nesting habitat with symbolic fencing and signs and reduce the presence of harmful lighting on certain beaches as described in the plan. The projects are: (1) Enhanced Management of Avian Breeding Habitat Injured by Response in the Florida Panhandle, Alabama, and Mississippi; and (2) Improving Habitat Injured by Spill Response: Restoring the Night Sky. Each of these projects will benefit coastal nesting habitats injured by response to the *Deepwater Horizon* oil spill.

This Phase II ERP/ER represents the second set of projects selected as part of the early restoration process. Planning for additional early restoration actions is continuing. Neither the Phase II ERP/ER nor any subsequent plan for early restoration is intended to or will fully address all injuries caused by the spill or provide the extent of restoration needed to satisfy

claims against responsible parties. Further comprehensive restoration will still be required to fully compensate the public for natural resource losses from the oil spill.

### **Administrative Record**

The documents comprising the Administrative Record can be viewed electronically at <http://www.doi.gov/deepwaterhorizon>

### **Author**

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### **Authorities**

The authorities of this action are the Oil Pollution Act of 1990 (33 U.S.C. § 2701 *et seq.*), the implementing Natural Resource Damage Assessment regulations found at 15 CFR Part 990, and the Framework Agreement.

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**Cynthia K. Dohner**

**DOI Authorized Official.**

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